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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HOT STITCH, LLC

08 CV 6296

Plaintiff,

-against-

ASHLEY STEWART, LTD.,
URBAN BRANDS, INC. and
ETHAN SHAPIRO,

Defendants,
-----X

NOTICE OF MOTION FOR AN ORDER DECLARING THAT, UNLESS WITHIN 10 DAYS THEREOF, ASHLEY FULLY PAYS FOR ALL ASHLEY STEWART BRANDED APPAREL IN HOT STITCH'S POSSESSION, HOT STITCH IS GRANTED A LIMITED LICENSE FOR THE SALE OF ANY *ASHLEY STEWART*® BRANDED APPAREL PRODUCED BY HOT STITCH PURSUANT TO ASHLEY STEWART, LTD.'s ORDER AND REMAINING IN ITS POSSESSION

PLEASE TAKE NOTICE that upon the annexed Complaint and Declaration of SAMUEL MESRIE, sworn to on July 9, 2008, and upon the exhibits attached thereto in support of this motion, and the pleadings herein, plaintiff HOT STITCH, LLC ("Hot Stitch") will move this Court, before the Honorable George B. Daniels, United States District Judge, on July 16, 2008 at 10:30 A.M., or as soon thereafter as counsel may be heard, for an Order, pursuant to **Rule 64 of the Federal Rules of Civil Procedure**, ordering defendant Ashley Stewart, Ltd. ("Ashley") to fully pay, within 10 days thereof, for all *Ashley Stewart*® branded apparel in Hot Stitch's possession; and in the event defendant Ashley is unwilling or unable to pay within these 10 days, granting Hot Stitch a limited license for the sale of any *Ashley Stewart*® branded apparel


produced by Hot Stitch pursuant to Ashley's order and remaining in its possession.

This Application is made upon the grounds that (1) defendants Ashley Stewart, Ltd. ("Ashley"), Urban Brands, Inc. ("Urban") and Ethan Shapiro ("Shapiro") are non-domiciliaries having a residence outside the State of New York, and that plaintiff has a cause of action against said defendants to recover damages of \$185,324.00 for conforming goods manufactured, sold and delivered by plaintiff to defendant Ashley, and that it is likely that plaintiff will prevail on the merits of said claim and that the amount exceeds all counterclaims known to plaintiff; and (2) that plaintiff is in possession of approximately 26,712 additional pairs of Ashley Stewart® branded jeans (the "Inventory") produced pursuant to defendant Ashley's orders and which have an estimated invoice value of \$253,764.00, which defendant Ashley maliciously refuses to take delivery of, or pay for, the Inventory, and (3) that unless plaintiff has the ability to mitigate its damages by selling the Inventory to retailers, it will continue to suffer irreparable harm, and (4) that the balance of hardships tips sharply in favor of the plaintiff;

Dated: New York, New York
July 11, 2008

BALLON STOLL BADER & NADLER, P.C.

By: _____


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